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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 391st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 June 1997, at 3 p.m.

Chairperson: Miss MASON

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Initial report of Azerbaijan (CRC/C/11/Add.8, CRC/C/Q/AZER.1 (List of issues to be taken up in connection with the consideration of the initial report of Azerbaijan); (written replies by Azerbaijan to questions asked in the List of issues to be taken up) (document without symbol distributed at the meeting in English only)) (continued)

1. At the invitation of the Chairperson, the delegation of Azerbaijan resumed its place at the Committee table.

2. The CHAIRPERSON invited the members of the delegation of Azerbaijan to reply to the questions raised by the Committee at the previous meeting.

3. Mr. RADJABOV (Azerbaijan), referring to the question of the definition of the child, said that various draft legislative texts currently under consideration envisaged a series of different ages for access to various rights. At present the minimum age for service in the armed forces was 18 years and the minimum age for seeking redress in court without being represented by one's parents was 16. The minimum age for marriage was 18 years for boys and 16 for girls, the difference being due to the country's traditions, of which the authorities had to take account.

4. With regard to the role of the boy child and the girl child in the family, he pointed out that Azerbaijan, which was a secular republic, did not apply Islamic law. That was why, under the law, boys and girls enjoyed the same rights. No special legislation had been adopted to implement the recommendations of the Fourth World Conference on Women, but Azerbaijan was carrying out a programme of assistance to the young family which took account of most of the concerns expressed at the Beijing Conference. Disabled children received an allowance up to the age of 16 years. With regard, finally, to incorporating the Convention in domestic law, he said it should be borne in mind that Azerbaijan was a young State which had been given a new Constitution only in November 1996. Moreover, Azerbaijan had acceded to numerous international instruments that would progressively be incorporated in national legislation. To that end the Azerbaijani authorities would like to be able to take advantage of technical assistance.

5. Mr. KARAYEV (Azerbaijan) said that under the law on education all citizens without discrimination must enjoy the benefit of education for at least eight years. At the end of the eighth year, a citizen might extend his studies until the eleventh year. At the end of the eleventh year any pupil who had gained a diploma had the right to take a competitive examination and to enrol in universities and other institutions of higher education according to his results. The public universities were free, and the private institutions of higher education fee-paying.

6. For reasons to do with the country's traditions and prevailing attitudes, the age for sexual consent was not laid down in any law. The only age explicitly stipulated was that for marriage. A law dating back to the Soviet period permitting girls of 11 to marry had been repealed. It was true

that at the beginning of the 1990s child mortality had increased. The phenomenon was essentially due to the consequences of the conflict with Armenia. There had been transfers of population from the territories where the conflict was taking place, and that had caused serious epidemiological problems. Since the ceasefire the Azerbaijani authorities had managed to bring the situation under control with the assistance of the international organizations, notably UNICEF, which had helped to organize a vaccination programme. In that connection it was worth noting that the entire population of Azerbaijan was now vaccinated against poliomyelitis.

7. Azerbaijan currently embraced 80 different nationalities and ethnic groups, and several religions, including Islam, Christianity and Judaism. With regard to efforts to combat discrimination, he pointed out that the President of Azerbaijan had promulgated a special decree on the promotion and protection of the freedoms and rights of minorities and ethnic groups. Finally, although it was true that the legislation accorded equal rights to the boy child and the girl child in the family, it nevertheless had to be acknowledged that traditions died hard and that young girls, who were expected to become housewives, were more often called upon to undertake household tasks, whereas boys received an education geared more to the outside world than to the home.

8. Mrs. EVAZOVA (Azerbaijan) said that her country had ratified the Geneva Conventions in 1993, the Convention on the Elimination of All Forms of Discrimination Against Women in 1995 and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination in 1996.

9. Mrs. KARP pointed out that the written replies provided by the delegation of Azerbaijan indicated that children aged from 15 to 18 could defend their rights before the courts. That appeared to conflict with the information given orally by the delegation. She asked whether the authorities intended specifically to establish in the new legislation the right of children to be heard in any judicial and administrative proceedings affecting them. Lastly, she wished to know how children were represented before the courts when their interests clashed with those of their parents or guardians.

10. Mr. RADJABOV (Azerbaijan) said that the rights of children aged from 15 to 18 were defended by their parents or guardians, although children aged over 16 were entitled to defend their interests before the courts alone.

11. Ms. SARDENBERG asked whether, despite its having been an independent State only since 1991, Azerbaijan's authorities had drawn up a programme to take into account the recommendations of the World Summit for Children, held in New York in 1990. It was her impression that Azerbaijan's population still had a rather outdated view of the child's place within the family and society. However, the people of Azerbaijan appeared to be building a new democracy and the time seemed right to encourage a public debate on the role of the child and to conduct relevant research. The legal prohibition of all forms of discrimination between men and women was to be welcomed, but she wished to know what was the actual situation of women in Azerbaijan.

12. Ms. MBOI said that it was important to define an age for sexual consent. In all societies, people had sexual relations outside marriage, regardless of whether tradition favoured them or not. The relatively large number of children aged under five suffering from sexually transmissible diseases was sufficient evidence that that was also the case in Azerbaijan. Consequently, and in view of the fact that the phenomenon of sexual violence against children was on the increase in many countries, it was important to set relevant limits.

13. Ms. MOKHUANE asked whether there were any procedures to enable the population to participate in drawing up the draft law on adoption. She also asked why restrictions had been imposed, contrary to article 15 of the Convention, on the right to freedom of association and peaceful assembly.

14. Mrs. OUEDRAOGO asked the Azerbaijani delegation to complete the information it had provided in reply to question 19 on birth registration, in order to clarify the allegation that births of handicapped and refugee children were not registered. She also found the reply to question 20 wanting, because, although specific measures to protect children from physical or sexual violence were described, no mention was made of their actual nature, of the machinery set up to implement them and of how cases of violence were brought to the attention of the judicial authorities.

15. Mr. RABAH said that, he too, would appreciate additional information on how births were registered and on the obstacles preventing the proper registration of births. He noted that there were a large number of refugees in Azerbaijan and asked what requirements were laid down for acquiring Azerbaijani nationality. Lastly, he asked whether the minimum legal age for employment, 16 years, was observed in practice.

16. Mr. KOLOSOV asked what provisions applied to relations between fathers, mothers and children in case of divorce, and whether both parents could keep in touch with their children regardless of who had their custody. He also drew attention to a gap between the age at which compulsory schooling terminated (15) and the minimum age for employment (16). A 15-year-old child, who did not wish to continue his studies but who was not yet entitled to work, would face problems.

17. The CHAIRPERSON, speaking as a member of the Committee, and referring to the answer given to question 17, asked whether the principle of respect for the views of the child, which was set forth in law, was also applied in practice, particularly within the family. She also asked how the principle of the best interests of the child would be reflected in the new Act on the rights of the child, whether it was already applied in practice and whether it was debated in public. Referring to the statement that Azerbaijani society was somewhat traditionalist, she asked whether, like many other countries which had achieved independence, Azerbaijan was opening up to foreign influence and to what extent the behaviour of young people was affected by it.

18. Mr. EFENDIYEV (Azerbaijan) said that even before independence, women had played a major role in Azerbaijan's politics and society. Many of them currently held leading positions.

19. He then replied briefly to the questions that had just been asked: Azerbaijani citizenship was automatically acquired by any child who was raised in Azerbaijan, regardless of his parents' nationality; birth registration was very strictly controlled; access to the foreign media and to the world's literature was facilitated from early childhood, and the teaching of foreign languages, which facilitated such access was becoming widespread, despite the current lack of qualified teachers.

20. Mr. RADJABOV (Azerbaijan) added that a parliamentary human rights commission and a social policy commission were responsible for all matters relating to the family, children, sport, health, medicine, the disabled, etc., and that the two commissions occasionally drew up bills jointly. The Azerbaijani authorities were also endeavouring to enlighten public opinion and made available to the public all the modern means of communication and of information, ranging from television - CNN was received in Azerbaijan - to those of computer science, and practised a policy of welcoming foreigners in order to enable Azerbaijan shortly to take its place among the nations of Europe and the world.

21. A number of points had been raised regarding the disabled. As far as failure to register their birth was concerned, he refuted the information and said that the formalities for the registration of births made such a practice impossible. The financial needs of the disabled were met by the health insurance system, which fully covered the health needs of all disabled persons, and by allowances paid to the families of disabled children until they reached the age of 18 years.

22. Regarding freedom of assembly and association, he said that there were youth organizations and that an act providing for the provision of meeting places for young people was being drawn up. Furthermore, under the provisions of the Act on Access to Employment, which had just been adopted, children could sign a contract of employment from the age of 16 and were authorized to do so from the age of 14 with the agreement of their parents or guardian.

23. He recognized that sexual relations outside marriage were in a legal vacuum, but said that legislation under consideration would fill the vacuum and also determine the age for sexual consent. Lastly, although the place of children within the family and society was not the subject of an actual public debate, sociological studies of the issue were under way and a working group of the relevant parliamentary commission had been given the task of sounding out public opinion and determining how to reflect it in legislation.

24. Mr. KARAYEV (Azerbaijan) said that there were 80 youth associations, that 12 organizations dealt with the problems of children and that there were almost 200 sports schools, in addition to clubs and cultural centres to provide for artistic development. It was true that only one survey - UNICEF's survey of street children - had focused on the opinion of children, but that was already a beginning. Azerbaijan was a new country that still had much to do in terms of legislation and practice to implement many of the principles already well established in the West.

25. Mrs. EVAZOVA (Azerbaijan) said that as a result of the Armenian attack on Azerbaijan more than 300,000 Azerbaijani children were living in refugee camps and were short of food and school equipment. Furthermore, in the territories occupied by Armenia schools, social infrastructure, crèches and kindergartens had been destroyed and the Government lacked the means to carry out the indispensable reconstruction.

26. The CHAIRPERSON, referring to question 20 of the list of issues, asked what concrete steps the Government had taken to protect children who were the victims of physical or sexual abuse. She said that she would also like to know whether the Government had adopted legislation to protect children from the ill-effects of what might be called video culture, i.e. films portraying violence or sexual acts, for example by prohibiting the sale or renting of pornographic magazines or cassettes to children under the age of 18 years.

27. Mrs. KARP, referring to the Government's reply to question 31 of the list of issues, asked why it mentioned the receipt of pensions by disabled children aged under 16, rather than under 18. It also seemed that under Azerbaijani legislation a representative of the public authorities was entitled to be present during meetings of private associations. She asked for further information on that provision which, if it existed, was likely to hinder freedom of association.

28. Regarding disabled or refugee children, she asked whether the authorities were doing everything possible to avert the possibility of discrimination against some children through lack of access or restricted access to public services and whether there was a housing programme for such children in Azerbaijan. She also emphasized the vital importance of providing an effective health and educational data-collection programme. She asked whether Azerbaijan possessed statistical resources to identify the number of cases of violations of the rights of the child and thus determine preventive strategies.

29. Mrs. OUEDRAOGO asked whether it was intended to set the same marriageable age for girls and boys in order to put an end to that form of gender-based discrimination.

30. Ms. SARDENBERG asked for further information in connection with the Government's reply to question 24 of the list of issues concerning the benefits and, in particular, concerning the special leave, to which mothers with two or more children under 14 or a disabled child under 16 years of age were entitled. She also asked whether the Government had drawn up a comprehensive action programme for children as a follow-up measure to the World Summit for Children.

31. Mr. RABAH said that he would like to know what measures the Government had taken to deal with the problem of street children.

32. Mr. RADJABOV (Azerbaijan), replying to Ms. Sardenberg, said that the reply to question 24 referred to disabled children aged under 16 because children aged over 16 were entitled to work and were covered by rehabilitation

programmes drawn up in conjunction with UNICEF and the Red Cross. However, even if they were employed, disabled children were entitled to ad hoc benefits or allowances.

33. With regard to marriageable age, he said that the difference between boys and girls could be explained by the fact that in Azerbaijan girls were considered to be physically mature earlier than boys, and he added that with special consent the age could be lowered by one year for both boys and girls.

34. Regarding refugee children, it was true to say that they suffered from discrimination in comparison with other children. However, responsibility for the discrimination did not lie with the Government, but rather with the Armenian aggressors and the international community for its failure to help to solve the problem.

35. Mr. KARAYEV (Azerbaijan) said that it was difficult to put into statistical terms cases of violations of the rights of the child. However, the Government would endeavour to make good that shortcoming and had already made plans to establish, within the Ministry of Youth and Sports Affairs, machinery to allow more precise data and information to be gathered on young people. The authorities nevertheless knew how many children had been killed or disabled as a result of the war in Nagorny Karabakh. Moreover, regarding discrimination against certain children, he said that a UNICEF programme had been introduced to create jobs for orphans and the disabled in order to integrate them into society.

36. In reply to the question by Mrs. Karp, he said that the law made no provision for a representative of the authorities to be present during the meetings of private associations. The Government planned to take measures to ensure that each community could use its own language. Currently, children living in small villages could study in Russian and Azeri, although in practice, as there were sometimes barely 100 children in such villages, it was difficult to prepare teaching material in their language for them alone. Lastly, the sale or renting to minors of magazines or video cassettes glorifying pornography or violence was prohibited by law.

37. The CHAIRPERSON invited the members of the Committee to ask any questions they had concerning family environment and alternative care (list of issues, paras. 22-30).

38. Mrs. OUEDRAOGO said that she would like to know, in connection with the reply to question 22, in what circumstances children who were refugees or orphans because of the Armenian aggression were admitted to State institutions. She asked for information on cooperation with UNHCR in that sphere and wished to know what impact the economic crisis had had on access by those children to welfare benefits. She would also like to know the divorce rate in Azerbaijan and would appreciate additional information on the mental health of the children of divorced couples. Was the child's opinion taken into account in determining custody. She also wished to know whether Azerbaijan planned to become a party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

39. Referring to the Education Act, mentioned in the reply to question 29, she asked what criteria were used to decide whether to place a child in one type of establishment rather than another and whether the child's views were taken into account. She also asked whether a section of the new children's code would deal with the problem of abuse of children within the family.

40. Mrs. KARP asked whether the planned new legislation concerning adoption would make it possible for adoptive children to know who their biological parents were, contrary to the current Act which provided for their name and even their first name to be changed, but made no provision to allow children to see their original birth certificate. She noted that in Azerbaijan many displaced children were cared for by close relatives who brought them up without adopting them or even being officially awarded custody, and asked what measures were taken to protect the rights of those children and of the families who had taken them in. She also asked what the Government's policy towards orphans or children deprived of their family environment was, and in particular what alternative solutions were provided, in view of the shortage of large establishments, and whether there were any plans to make greater use of family placement. In view of the large number of displaced or refugee children separated from their family, she would also like to know whether any institution was responsible for helping them to trace their family and if so, how it operated. Lastly, she asked whether Azerbaijan had any data on violence against women and against children within the family, both of which were linked, and whether there were any guidelines and institutions to deal with the problem.

41. Ms. MBOI said that she doubted the reliability of data, and in particular data relating to adolescent suicides, according to which the suicide rate had fallen among 15-24 year-old males but had almost doubled among young women in the same age group. She also asked what solution or combination of solutions the Government of Azerbaijan intended to favour, in view of the circumstances, to care for adolescents, such as adoption, family placement in Azerbaijan, inter-country adoption or institutional placement.

42. Ms. SARDENBERG noted that there were many female heads of single-parent families in Azerbaijan and asked whether any studies had been carried out into the matter and whether the Government planned to develop a policy to improve their circumstances.

43. Mr. KOLOSOV said he noted from the report that only 1 per cent of the 300,000 child refugees in Azerbaijan were attending school. He asked what the situation of the other refugee children was. In that connection, he suggested that it would be preferable to describe them as displaced children, since many of them had come, not from a foreign country, but from occupied Azerbaijani territory. In the same connection, he would like to know whether in Azerbaijan all displaced persons were registered and issued with a document officially attesting to their status.

44. Noting that the Azerbaijani Parliament had just adopted an amendment to the Marriage and Family Code, extending to foreign citizens the same rights as Azerbaijani citizens enjoyed in respect of adoption and simplifying the procedure by giving responsibility for the final decision to the local authorities, he expressed his concern that, as Azerbaijan was not a party to

the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, it would be impossible for its authorities to monitor the living conditions of children sent abroad for adoption.

45. He asked whether the Government planned to introduce machinery and to draw up plans for gradually improving the circumstances of the most underprivileged sectors of society, in particular by increasing the allowances paid to reduce the rising number of children abandoned at birth by destitute mothers and of street children. Furthermore, regarding living conditions in orphanages and other institutions caring for children, he asked whether, in view of the insufficient resources assigned to them, the Government planned to reallocate certain budgetary funds to remedy the situation and thus meet its commitments under article 4 of the Convention, by guaranteeing decent living conditions for those children who were already deprived of their family.

46. The CHAIRPERSON asked whether Azerbaijan had introduced educational programmes and family counselling services for parents to help them to understand their responsibilities towards their children, and whether it had introduced legislation to compel parents to meet their financial obligations towards their children. She also asked whether Azerbaijan had concluded or planned to conclude bilateral or multilateral agreements to compel an expatriate parent to meet the needs of his child or children left in Azerbaijan.

47. Ms. MOKHUANE said that, according to information she had received, a public boarding establishment had been closed in 1993 and some of its boarders placed in an establishment for patients with psychological disorders. She asked whether the delegation was aware of the case and if any measures had been taken to remedy the situation.

48. Mr. KARAYEV (Azerbaijan) said that the Ministry of Youth and Sports Affairs had drawn up a draft special assistance programme for families, which was currently being considered by the Parliament, and that the definitive programme would take into account the ideas put forward by the members of the Committee. He confirmed that the word "refugee" used in the report covered internally displaced persons.

49. Mr. EFENDIYEV (Azerbaijan) added that in Azerbaijan there were both displaced persons and refugees in the strict sense of the word, i.e. people who had been driven from a foreign country, in particular Armenia, in 1987 and 1988, and that since 1990 refugees of Turkish origin had also arrived from Central Asia, together with Georgians. As a result there were currently 300,000 foreign refugees and 700,000 forcibly displaced persons in Azerbaijan.

50. Mr. KARAYEV (Azerbaijan) said that many children who had been left parentless by the war were indeed raised in the family of near relatives in different regions of Azerbaijan. There had not yet been any legislation on the practice but the Government planned to provide assistance for families who took in children and brought them up as their own. Moreover, that solution cost the Government less than the huge orphanages inherited from the Soviet period, while enabling children to enjoy a family atmosphere that was more favourable for their psychological development. Regarding the orphanage some of whose inmates had allegedly been transferred to other establishments,

including hospitals, he asked whether the source of the information could contact the Azerbaijani delegation to enable it to ascertain whether it was true.

51. The Government had taken measures to reduce the number of street children, taking into account the views of the children concerned. The action was essentially conducted by ad hoc commissions responsible for "problem" children, which had been set up in all regions of Azerbaijan and which included representatives of NGOs, teachers, social workers and educators.

52. The CHAIRPERSON said that the Azerbaijani delegation would reply to the questions not yet taken up at the Committee's next meeting.

The meeting rose at 6 p.m.